

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO,

Plaintiff,

v.

Case No. 1:17-CV-00995-JB-KK

THE PUEBLO OF ISLETA,
a federally recognized Indian tribe,
THE PUEBLO OF SANDIA,
a federally recognized Indian tribe,
THE PUEBLO OF TESUQUE,
a federally recognized Indian tribe,
THE SANTA CLARA PUEBLO,
a federally recognized Indian tribe,
THE SAN FELIPE PUEBLO,
a federally recognized Indian tribe, and
THE SANTA ANA PUEBLO,
a federally recognized Indian tribe.

Defendants.

NOTICE OF DISMISSAL

Plaintiff the State of New Mexico, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), hereby voluntarily dismisses the above-captioned cause of action. In this matter, Defendants have neither filed an answer nor a motion for summary judgment, having filed only a motion to dismiss. Accordingly, Plaintiff has the “absolute right to dismiss without prejudice” under Rule 41(a)(1)(A)(1). *Janssen v. Harris*, 321 F.3d 998, 1000 (10th Cir. 2003); *see De Leon v. Marcos*, 659 F.3d 1276 (10th Cir. 2011) (“Here, Denman was the only defendant to appear, and it filed a motion to dismiss, not an answer or a motion for summary judgment. Thus, De Leon could have dismissed the case unilaterally under Rule 41(a)(1)(A)(i).”). Plaintiff therefore voluntarily dismisses the above-captioned cause of action in light of Defendants’ decision not to waive their sovereign immunity.

Respectfully submitted,

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By /s/ Krystle A. Thomas

Nelson Franse

Ed Ricco

Krystle A. Thomas

P. O. Box 1888

Albuquerque, NM 87103

Telephone: (505) 765-5900

FAX: (505) 768-7395

nfranse@rodey.com

ericco@rodey.com

kthomas@rodey.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2017, I filed the foregoing pleading electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By /s/ Krystle A. Thomas

Krystle A. Thomas